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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Roland Scherer

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EXAMINER

NGUYEN, VU Q

ART UNIT

PAPER NUMBER

3657

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/554,482	Applicant(s) SCHERER, ROLAND	
	Examiner VU Q. NGUYEN	Art Unit 3657	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>02/02/2006; 10/24/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

The disclosure is objected to because of the following informalities:

On page 7, paragraph 0021, "t_{AUSSIGNAL}" should be --t_{offsignal}--.

On page 7, paragraph 0022, "t_{EINSIGNAL}" should be --t_{onsignal}--.

Appropriate correction is required.

Claim Objections

Claims 1-12 and 14-20 are objected to because of the following informalities:

In claim 1, lines 3-4, "said circuit. The method comprises" should be --said circuit, the method comprising--.

In claim 4, line 10, "up the falling below" should be --upon the falling below--.

In claim 7, lines 3-4, "the detected temporal progression of the actuating pressure" should be --the temporal progression of the detected actuating pressure--.

In claim 8, line 3, "the detected temporal progression" should be --the temporal progression of the detected actuating pressure--.

In claim 10, line 2, "a retarder" should be --the retarder--.

In claim 15, lines 9-10, "up the falling below" should be --upon the falling below--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1 (lines 2 and 9), 2 (line 2), 4 (2nd to last line), and 15 (last line), the phrase "in particular" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim 1 recites the limitations "the temporal progression" and "the actual-target comparison" in lines 7 and 10, respectively. There is insufficient antecedent basis for these limitations in the claim.

Claim 3 recites the limitation "the retarder control unit" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 4 recites the limitation "the predetermined target progression comprises two target characteristics, an advance warning characteristic and an immobilization characteristic." The wording and/or phrasing of the limitation renders it unclear exactly how many characteristics are being recited. Are there two or four characteristics? The Examiner assumes there are only two characteristics.

Furthermore, claim 4 is generally confusing as to exactly what is being recited, thereby rendering the scope of the claim indefinite. How exactly is the detected

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actuating pressure compared with the warning characteristic and the immobilization characteristic? When exactly is a warning issued? When exactly is a future activation of the retarder prevented?

Claims 6 and 18-20 recite the limitation "the operating data detected at the beginning of the vehicle operating time." There is insufficient antecedent basis for this limitation in the claims.

Claim 13 recites the limitation "Use of a pressure sensor installed in an actuating pressure control circuit of a retarder for the dynamic monitoring of the actuating pressure and for error detection." Claim 13 does not appear to be dependent on any other claim. The scope of claim 13 is thereby rendered indefinite, since it is unclear exactly what structure is encompassed by the claim, and thus, the exact metes and bounds of the claim. Does the mere use of a pressure sensor with a retarder meet the limitations of the claim?

Claim 15 is rejected for the same reasons as set forth above for claim 4.

Claim 16 recites the limitation "the target characteristic" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claims 17 and 19 recite the limitation "the target characteristic, of which there is at least one." Claim 4, which claims 17 and 19 depend on, already recites "two target characteristics" in lines 2-3. Thus, it is unclear which exactly which target characteristic is being referred to in claims 17 and 19.

Claim 18 recites the limitation "the target characteristic." There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Japanese Patent Document JP 07-291114 (JP '114).

Regarding independent claim 1, JP '114 discloses a method for monitoring a braking torque modification of a retarder (11), in particular of a motor vehicle, said braking torque modification being controlled by an actuating pressure control circuit (21) comprising a pressure sensor (8) that is connected in said circuit, the method comprising the following steps: the actuating pressure of the retarder (11) is dynamically detected by means of the pressure sensor (8) that is mounted in the actuating pressure control circuit (21); the temporal progression of the detected actuating pressure is compared with at least one predetermined target progression (as broadly recited; see provided English abstract, last sentence, disclosing comparison with “a prescribed range”); a warning is issued (see warning means 48) and/or a future activation of the retarder by a user, in particular the driver of the vehicle, is prevented, based on the actual-target comparison and if predetermined criteria have been fulfilled (as broadly recited; see provided English abstract, last sentence).

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Regarding dependent claims 2-12 and 14-20, the Examiner submits that JP '114 meets the claim limitations, as broadly recited and as best understood (see 35 U.S.C. 112, 2nd paragraph rejections above). See retarder control unit 100 (Fig. 1) comprising comparison means 47, 49 (Fig. 2). JP '114 also discloses comparison of the detected actuating pressure (m) with at least two characteristics (s and t) having minimum and maximum values (s_1 , s_2 , t_1 , t_2) (see Fig. 2 and paragraphs 0027-0028 and 0034-0035 of the provided machine translation). Also see reservoir 4.

Regarding independent claim 13, the claim is rejected for at least the same reasons as set forth above. Also see 35 U.S.C. 112, 2nd paragraph rejection above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VU Q. NGUYEN whose telephone number is (571) 272-7921. The examiner can normally be reached on Monday through Friday, 11:30 AM to 8:00 PM, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Siconolfi can be reached on (571) 272-7124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/V. Q. N./
Examiner, Art Unit 3657

/Robert A. Siconolfi/
Supervisory Patent Examiner, Art
Unit 3657